



INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-756

CERTAIN REDUCED IGNITION PROCLIVITY CIGARETTE PAPER WRAPPERS

AND PRODUCTS CONTAINING SAME

TERMINATION OF INVESTIGATION

WITH FINAL DETERMINATION OF NO VIOLATION

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation with a final determination of no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”).

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 27, 2011, based on a complaint filed by Schweitzer-Mauduit International, Inc. (“Schweitzer”) of Alpharetta, Georgia. 76 *Fed. Reg.* 4935 (January 27, 2011). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the sale for importation, importation, or sale after importation of certain reduced ignition proclivity cigarette paper wrappers and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 5,878,753 (“the ‘753 patent”) and 6,725,867 (“the ‘867 patent”). The Commission’s notice of investigation named Astra Tobacco Corporation of Chapel Hill, North Carolina; delfortgroup AG of Traun, Austria; LIPtec GmbH of Neidenfels, Germany; and Julius Glatz GmbH of Neidenfels, Germany as respondents.

On April 15, 2011, the Commission issued notice of its determination not to review an ID (Order No. 5) granting Schweitzer’s motion to amend the complaint and notice of investigation to add seven more respondents: Dr. Franz Feurstein GmbH of Traun, Austria; Papierfabrik Wattens GmbH & Co. KG of Wattens, Austria; Dosal Tobacco Corp. of Miami, Florida; Farmer's Tobacco Co. of Cynthia, Kentucky; KneX Worldwide, LLC of Charlotte, North Carolina; S&M Brands, Inc. of Keysville, Virginia; Tantus Tobacco LLC of Russell Springs, Kentucky.

On December 1, 2011, the Commission determined not to review an ID (Order No. 30) of the administrative law judge terminating Respondents delfortgroup AG, Dr. Franz Feurstein GmbH, Papierfabrik Wattens GmbH & Co. KG, Astra Tobacco Corp., Dosal Tobacco Corp.,

Farmer's Tobacco Co., S&M Brands, Inc., and Tantus Tobacco LLC (collectively, the “Delfort Respondents”) from the investigation. Respondents Julius Glatz GmbH, LIPTec GmbH, and KneX Worldwide LLC (collectively, “Glatz”) remain in the investigation.

An evidentiary hearing was held from October 31, 2011, to November 8, 2011. On February 1, 2012, the presiding administrative law judge issued a final initial determination finding no violation of section 337 in the above-identified investigation. Specifically, the ALJ found that there was no violation with respect to either the ‘753 patent or the ‘867 patent by Glatz. The ALJ also issued a recommended determination on remedy, the public interest, and bonding.

Schweitzer filed a petition for review of the final ID. Glatz filed a contingent petition for review. Each of the parties filed a response to the petition and contingent petition for review.

On April 2, 2012, the Commission issued notice of its determination to review the final ID in part, and to solicit briefing on certain issues including on remedy, the public interest, and bonding. With respect to the ‘753 patent, the Commission determined to review the construction of the term “gradually” in the asserted claims and the issues of direct and indirect infringement, obviousness, definiteness, utility, and the technical prong of the domestic industry requirement in the ID. With respect to the ‘867 patent, the Commission determined to review the construction of the term “film forming composition” in the asserted claims and the issues of direct and indirect infringement, priority date, statutory bar under 35 U.S.C. § 102(b), anticipation,

obviousness, written description, enablement, and the technical prong of the domestic industry requirement in the ID.

Having reviewed the final ID, the submissions on review, and the record, the Commission has determined to terminate the investigation with a final determination of no violation of section 337.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and under sections 210.42 - .46, .51(a) of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42 - .46, .51(a)).

By order of the Commission.

Lisa R. Barton

Acting Secretary to the Commission

Issued: June 5, 2012

[FR Doc. 2012-14063 Filed 06/08/2012 at 8:45 am; Publication Date: 06/11/2012]